

**Rector, Church Wardens and Vestrymen of Grace Church in the City of New York, d/b/a Grace Church in the City of New York, Petitioner-Employer and Local 802, Associated Musicians of Greater New York, AFL-CIO. Case AO-324**

June 23, 1995

**ADVISORY OPINION**

BY MEMBERS BROWNING, COHEN, AND  
TRUESDALE

Pursuant to Sections 102.98(a) and 102.99 of the National Labor Relations Board's Rules and Regulations, on May 30, 1995, Rector, Church Wardens and Vestrymen of Grace Church in the City of New York, d/b/a Grace Church in the City of New York (the Employer), filed a petition for Advisory Opinion about whether the Board would assert jurisdiction over its operations on the basis of its current standards.<sup>1</sup> In pertinent part, the petition alleges as follows:

1. A proceeding, Case SE-58908, is currently pending before the New York State Employment Relations Board (NYSERB) in which the Union alleges that a question or controversy exists concerning representation of certain alleged employees at the Employer pursuant to Section 705(3) of the New York State Employment Relations Act.

2. The Employer is an Episcopal Church with a congregation of approximately 600 parishioners and a primary school with an enrollment of 365 children. It

provides religious services and guidance, elementary education, Sunday religious instruction, and service to the poor and infirm in the community. The Employer is a tax-exempt organization pursuant to the Internal Revenue Code Section 501(c)(3).

3. During the year ending May 23, 1995, the Employer and its school, which operate under a single corporation, had gross revenues in excess of \$1 million, and purchased materials and services valued in excess of \$50,000 directly from outside the State of New York.

4. The foregoing commerce data have been neither denied nor admitted by the Union nor have they been considered by the NYSERB.

5. There are no representation or unfair labor practice proceedings involving the Employer pending before the Board.

Although all parties were served with a copy of the petition for Advisory Opinion, no response was filed.

Having duly considered the matter,<sup>2</sup> the Board is of the opinion that, inasmuch as the Employer has gross annual revenue in excess of \$1 million and direct inflow in excess of \$50,000, the Employer would satisfy any of the Board's jurisdictional standards.

Accordingly, the parties are advised that, based on the allegations in the petition, the Board would assert jurisdiction over the Employer under the current standards.<sup>3</sup>

<sup>2</sup>The Board has delegated its authority in this proceeding to a three-member panel.

<sup>3</sup>The Board's advisory opinion proceedings under Sec. 102.98(a) are designed primarily to determine whether an employer's operations meet the Board's "commerce" standards for asserting jurisdiction. Accordingly, the instant Advisory Opinion is not intended to express any view whether the Board would certify the Union as representative of the petitioned-for unit under Sec. 9(c) of the Act. See generally Sec. 101.40 of the Board's Rules.

<sup>1</sup>The Employer, in seeking an advisory opinion, reserves all rights, claims, and defenses, including those arising under the Religion Clauses of the First Amendment of the Constitution of the United States of America as well as those arising under the New York State Constitution. The instant Advisory Opinion does not address these issues. See generally *Command Security Corp.*, 293 NLRB 593 (1989); and *St. Paul Ramsey Medical Center*, 288 NLRB 913 (1988).